

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:07-CR-142-D

UNITED STATES OF AMERICA

v.

DORSEY DOMANTA DUDLEY,

Defendant.

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ORDER

On November 19, 2007, pursuant to a plea agreement [D.E. 20], Dorsey Domanta Dudley (“Dudley”) pleaded guilty to one count of distributing 50 grams or more of cocaine base (crack) in violation of 21 U.S.C. § 841(a)(1). See [D.E. 1] 2; [D.E. 19] 2; [D.E. 20] 6–7, 9. On April 9, 2008, the court held Dudley’s sentencing hearing. See Sentencing Tr. [D.E. 32]. At the hearing, the court adopted the facts in the Presentence Investigation Report (“PSR”) and ruled on Dudley’s objections. See id. 4–6; Fed. R. Crim. P. 32(i)(3)(A)-(B). The court calculated Dudley’s total offense level to be 31, his criminal history category to be III, and his advisory guideline range to be 135 to 168 months. See Sentencing Tr. 6–7. After thoroughly considering all relevant factors under 18 U.S.C. § 3553(a), the court sentenced Dudley to 135 months’ imprisonment to run consecutive to his state sentence. See id. 14–21; [D.E. 26].

On April 17, 2013, Dudley filed a motion for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and App. C amendments 750 and 759 to the Sentencing Guidelines. See [D.E. 28]. On October 18, 2013, the government responded in opposition. See [D.E. 31]. On February 5, 2014, the court denied Dudley’s motion for a sentence reduction. See [D.E. 33]. On February 11, 2014, Dudley appealed. See [D.E. 34]. On July 24, 2014, the United States Court of

Appeals for the Fourth Circuit affirmed this court's order. See United States v. Dudley, 578 F. App'x 244, 244 (4th Cir. 2014) (per curiam) (unpublished).

On October 2, 2014, Dudley filed a motion for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Amendment 782 to the Sentencing Guidelines. See [D.E. 43]. On September 8, 2015, Dudley filed a memorandum in support. See [D.E. 45]. Dudley's new advisory guideline range is 120 months' imprisonment based on a total offense level of 25 and a criminal history category of III. See id. 1, 4. Dudley seeks a 120-month sentence. See id. 4. On September 14, 2015, the government responded. See [D.E. 47].

The court has discretion to reduce Dudley's sentence. See, e.g., Dillon v. United States, 560 U.S. 817, 827 (2010); United States v. Cole, 618 F. App'x 178, 178–79 (4th Cir. 2015) (per curiam) (unpublished); United States v. Thomas, 546 F. App'x 225, 225–26 (4th Cir. 2013) (per curiam) (unpublished); United States v. Perez, 536 F. App'x 321, 321 (4th Cir. 2013) (per curiam) (unpublished); United States v. Smalls, 720 F.3d 193, 195–97 (4th Cir. 2013); United States v. Stewart, 595 F.3d 197, 200 (4th Cir. 2010). In deciding whether to reduce Dudley's sentence, the court finds that Dudley engaged in serious criminal conduct. See PSR ¶¶ 5–7. Furthermore, Dudley has a conviction for assault with a deadly weapon on a government official. See id. ¶ 11. Moreover, while incarcerated on his federal sentence, Dudley has engaged in some positive conduct but also has been sanctioned for using drugs or alcohol. See [D.E. 45] 5, 8; cf. Pepper v. United States, 562 U.S. 476, 491 (2011); U.S.S.G. § 1B1.10, cmt. n.1(B)(iii).

Having reviewed the entire record and all relevant policy statements, the court finds that Dudley received the sentence that was “sufficient, but not greater than necessary” under 18 U.S.C. § 3553(a) and finds that reducing Dudley's sentence would threaten public safety in light of his serious criminal conduct, criminal history, and misconduct in prison. Cf. U.S.S.G. § 1B1.10, cmt.

n.1(B)(ii). Dudley's serious criminal conduct, criminal history, and misconduct in prison do not support reducing Dudley's sentence. Thus, the court denies Dudley's motion for reduction of sentence. See, e.g., Cole, 618 F. App'x at 178–79; Thomas, 546 F. App'x at 225–26; Perez, 536 F. App'x at 321.

In sum, Dudley's motion for reduction of sentence [D.E. 43] is DENIED.

SO ORDERED. This 16 day of May 2016.



JAMES C. DEVER III
Chief United States District Judge